IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.Rev.Pet.No.799 of 1997

CRA.236/1994 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE, KOZHIKODE.

C.C.461/1993 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-V, KOZHIKODE

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PETITIONER/APPELLANT/ACCUSED:-

SAIDALAVI, S/O.IMBICHI KOYA,
CHEROOPPA AMSOM, MAVOOR, KOZHIKODE.

BY ADV. SRI.P.V.CHANDRA MOHAN
SRI.MAT.PAI
SRI.P.M.MOHAMED ALI.

RESPONDENT/RESPONDENT/COMPLAINANT:-

STATE OF KERALA,
REPRESENTED BY THE CIRCLE INSPECTOR OF POLICE,
CITY TRAFFIC CRIME NO.156/93,
KOZHIKODE, HERE -
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

ADV. SRI.V.K.SUNIL APPEARED FOR THE DEFACTO COMPLAINANT.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.799 of 1997

Dated, this the 13th day of December, 2006

ORDER

V.K. Bali, CJ. (Oral)

Petitioner was tried for the offences under Sections 279 and 304-A of Indian Penal Code. The trial culminated into his conviction and sentence. He has been sentenced to undergo rigorous imprisonment for one year under Section 304-A and rigorous imprisonment for four months under Section 279 of Indian Penal Code. The sentences were ordered to run concurrently, as would be clear from the order dated 8th September, 1994 passed by the Judicial First Class Magistrate-V, Kozhikode. The appeal carried against the order aforesaid was dismissed by the learned Additional Sessions Judge, Kozhikode vide order dated 24th June, 1997. It is against these two orders that the present revision has been filed.

2. The occurrence pertains to the year 1993. An eleven year old girl unfortunately died in the incident. Counsel for the petitioner, on the last date of hearing, urged that the petitioner is almost 70 years of age and the occurrence had taken place in

1993 and the petitioner has, in the manner aforesaid, undergone a protracted trial spanned over a period of more than thirteen years and he may not be sent to serve a jail term at this stage and the petitioner, therefore, be let of by imposing a fine.

3. On 15.3.2006, notice was issued to the defacto complainant. Abubacker, the father of the unfortunate girl died in the accident, is present in Court. He is also represented by a lawyer. The defacto complainant and his counsel state that if the petitioner may pay compensation of an amount of Rs.25,000/-, he may not be sent to jail.

4. In totality of the facts and circumstances of this case and in particular that the petitioner is an old man and the defacto complainant has also reconciled the incident and agreed to accept compensation, it would not be in the interest of justice to send the petitioner to jail at this stage, instead, while maintaining the order of conviction, the petitioner is directed to pay a fine of Rs.25,000/- (Rupees twenty five thousand only) within three months from today, which, if realised, would be paid to Abubacker, the defacto complainant. If, however, the compensation is not paid, the petitioner would serve the sentence imposed by the Courts below.

With the modification as made above to the orders passed by the Courts below, the present revision is disposed of.

V.K.Bali
Chief Justice

vku/-